

REMARKS

In the Office Action of June 8, 2005, claims 7-15 and 19-21 were objected to under 37 C.F.R. 1.75(a) for lacking antecedent basis, claims 1, 2, 4, 5, 7-12, 15-17, 19, 20, 22, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,716,007 to Nottingham et al. ("Nottingham"), claims 1, 2, 5, 7, 18-20 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,197,460 to Ito et al. ("Ito"), claims 3 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of U.S. Patent 5,125,835 to Young ("Young"), claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ito, claims 6-12 and 19-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of U.S. Patent 4,108,167 to Hickman ("Hickman"), claims 13 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of U.S. Patent 3,572,375 to Rosenberg ("Rosenberg"), and claims 14 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Resenberg, U.S. Patent 4,160,383 to Rauschenberger ("Rauschenberger"), and U.S. Patent 555,588 to Spencer ("Spencer"). Also, in the Office Action, claim 21 was objected to for being dependant upon a rejected base claim, but was indicated to be allowable if rewritten into independent form to include all of the limitations of its base claim and any intervening claims. Applicants thanks the Examiner for recognizing the allowable subject matter.

In response to the Office Action, Applicants have amended claims 1-3, 7, 15, 23 and 26 and provide the following remarks. Applicants also add new claims 29-34. The claim amendments and new claims are supported by the specification and figures as filed and contain no new matter.

Applicants respectfully submit that the application is now in allowable condition. A Notice of Allowance is respectfully requested.

a. Claim Objections

In the Office Action, claims 7-15 and 19-21 were objected to under 37 C.F.R. 1.75(a) for lacking antecedent basis. In response, Applicants have amended claim 7 to depend from claim 6, which provides the necessary antecedent basis. Also, Applicants have amended claim 15 to depend from claim 14, which provides the necessary antecedent basis.

Reconsideration and withdrawal of the objections to the claims are respectfully requested.

b. 35 U.S.C. 102(b) Rejections Based On Nottingham

In the Office Action, claims 1, 2, 4, 5, 7-12, 15-17, 19, 20, 22, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by Nottingham. Nottingham is a "hand-held fluid dispenser ... usable with supply containers having different fluids to be dispensed." *Nottingham abstract*. Such fluid dispensers are used to dispense household cleaning solutions, pesticides, herbicides, etc., not for irrigating an oral cavity as made possible by Applicants' claimed invention.

Nottingham's nozzle 60, as depicted in FIGS. 1 and 3-6 of Nottingham, is disk-like and consists of a circular planar face, a discharge opening 62 extending through the circular planar face, and a rim extending perpendicularly away from the circular planar face for securing the nozzle 60 to the housing of the pumping unit 12. As best understood from FIG. 1 of Nottingham, the nozzle 60 terminates well within the body or housing 22 of the Nottingham fluid dispenser 10. Nottingham clearly does not have an elongated nozzle 60. As a result, Nottingham's nozzle 60 does not sufficiently project from the rest of the Nottingham fluid dispenser 10 to allow the discharge opening 62 of the nozzle 60 to be placed in close proximity to the rear teeth and gums in a human mouth.

In contrast to the nozzle of Nottingham, Applicants' invention employs "an elongated nozzle" 56, as indicated in FIGS. 2 and 4 of Applicants' application and as recited in Applicants' independent claims 1 and 26. The "elongated nozzle" 56 of Applicants' claimed invention allows the discharge opening of the nozzle 56 to be placed in close proximity to the rear teeth and gums, thereby facilitating their treatment during an irrigation procedure.

For at least these reasons, Nottingham fails to anticipate each and every element of Applicants' claimed invention. Reconsideration and withdrawal of the anticipation rejections based on Nottingham are respectfully requested.

c. 35 U.S.C. 102(b) Rejections Based On Ito

In one embodiment, claims 1, 2, 5, 7, 18-20 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by Ito. As best understood from Ito's FIG. 6, Ito discloses "[a] mouth cavity sanitary device comprising ... a reservoir chamber formed from the upper portion of the outer case...." *Ito, Abstract*. In contrast to Ito, Applicants' claimed invention, as recited in independent claim 1, comprises a body and a reservoir,

wherein the reservoir defines a first major diameter at a lower end of the oral irrigation device and the body and reservoir combine to define a second major diameter at an upper end of the oral irrigation device, the first major diameter being larger than the second major diameter.

Ito does not disclose such a configuration. For at least these reasons, Ito fails to anticipate each and every element of Applicants' claimed invention. Reconsideration and withdrawal of the anticipation rejections based on Ito are respectfully requested.

d. 35 U.S.C. 103(a) Rejections Based On Ito/Young and Ito/Ordinary Skilled Artisan Combinations

In the Office Action, claims 3 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of Young. Also, claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of knowledge possessed by the ordinary skilled artisan.

As explained in the preceding subsection c of these Remarks, Ito does not teach or suggest Applicants' claimed invention as recited in independent claim 1, which recites "[a] hand held oral irrigation device ... comprising: a reservoir ... [and] a body ..., wherein the reservoir defines a first major diameter at a lower end of the oral irrigation device and the body and reservoir combine to define a second major diameter at an upper end of the oral irrigation device, the first major diameter being larger than the second major diameter." None of the other references of record, including Young, remedy Ito's inadequacy. For at least these reasons, the obviousness rejections based on Ito fail to disclose, teach or suggest each and every element of Applicants' claimed invention. Reconsideration and withdrawal of the obviousness rejections based on the Ito are respectfully requested.

e. 35 U.S.C. 103(a) Rejections Based On The Nottingham/Hickman Combination

In the Office Action, claims 6-12 and 19-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Hickman. As explained in the preceding subsection b of these Remarks, Nottingham does not teach or suggest Applicants' claimed invention as recited in independent claims 1 and 26, which recite "an elongated nozzle."

While FIGS. 27-30 of Hickman disclose elongated nozzles, nothing in Nottingham (which is a fluid dispenser for dispensing household cleaners, pesticides, herbicides, etc.) teaches or suggests a need for the elongated nozzles of Hickman. For at least this reason, the Nottingham/Hickman combination fails to disclose, teach or suggest each and every element of Applicants' claimed invention. Reconsideration and withdrawal of the obviousness rejections based on Nottingham/Hickman are respectfully requested.

f. 35 U.S.C. 103(a) Rejections Based On The Nottingham/Rosenburg and Nottingham/Rosenburg/Rauschenberger/Spencer Combinations

In the Office Action, claims 13 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Rosenberg. Also, claims 14 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham in view of Rosenberg, Rauschenberger, and Spencer.

As explained in the preceding subsection b of these Remarks, Nottingham does not teach or suggest Applicants' claimed invention as recited in independent claims 1 and 26, which recite "an elongated nozzle." Neither Rosenberg, Rauschenberger, nor Spencer remedy Nottingham's inadequacy. For at least these reasons, the obviousness rejections based on the Nottingham/Rosenburg and Nottingham/Rosenburg/Rauschenberger/Spencer combinations fail to disclose, teach or suggest each and every element of Applicants' claimed invention. Reconsideration and withdrawal of the obviousness rejections based on the Nottingham/Rosenburg and Nottingham/Rosenburg/Rauschenberger/Spencer.

g. New Claims

Applicants have added new claims 29-34, which are directed to a hand held oral irrigation device for irrigating an oral cavity with a fluid. The claims recite limitations pertaining to the various diameters of the device and the relationship of the reservoir with respect to other elements of the device. The various diameters and the relationships of the various components combine to provide an ergonomically configured and well balanced hand held oral irrigation device. The ergonomic configuration and balance of the device facilitate its ease of use.

New claims 29-34 are supported by FIGS. 2 and 4 and the discussion in the specification pertaining thereto. The claims contain no new matter and are believed to be allowable over the art of record. A notice of allowance is respectfully requested.

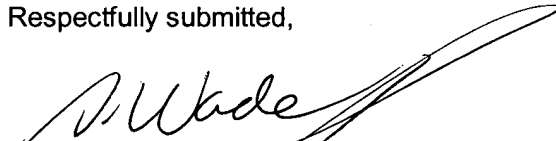
CONCLUSION

The addition of new claims 29-34 requires the payment of excess claims fee and the contemporaneous filing of a Supplemental Information Disclosure Statement after Office Action requires payment under 37 C.F.R. § 1.17(p). Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$480.00 (\$300.00 for excess claims fee and \$180.00 for Information Disclosure Statement fee). The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

If the Examiner should require any additional information or amendment, please contact the undersigned at (303) 629-3423.

Dated: 8-30-05

Respectfully submitted,



S. Wade Johnson, Registration No. 50,873
Attorney for Applicant
USPTO Customer No. 20686
DORSEY & WHITNEY LLP
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel: 303-629-3400
Fax: 303-629-3450